

## Massachusetts OHV Advisory Committee Meeting Minutes

<b>Meeting name</b>	OHV Advisory Committee Meeting (9)		
<b>Date</b>	9-12-12	<b>Time</b>	11:00 AM – 3:00 PM
<b>Location</b>	Purgatory Chasm State Reservation, Sutton, MA	<b>Meeting host</b>	Stephanie Cooper, EEA
Attendees			
Stephanie Cooper (EEA)	Randy Toth	Ken Anderson	Sharon Jordan
Capt. Robert Forsythe (OLE)	Briere, Gary (DCR)	Celia Riechel (EEA)	Bill Riordan
Tad Ames			
Absentees			
Colleen McGuire	Chris Baker (OLE)	Chief Ernest Horn	Peter Masiokas
Lt. Merri Walker (OLE)	Priscilla Chapman	Dan D’Arcy	Chris Mossman

### Synopsis of items discussed

#### 1. Welcome and introductions

#### 2. Education and outreach subcommittee report

Summary of last meeting. A revised letter to be sent to organizations to help spread the word about the OHV law and child safety was sent in the interim to the committee. A list of organizations to receive the letter was also distributed. Committee members should feel free to comment on the list and suggest other organizations. The letter could also ask organizations if they want to be part of a continuing network, so updates, events, etc, can go through them. The idea is to build a network of existing organizations that people already know and go to for information. Some members of the committee voiced their desire for there to be greater clarity on environmental protections, and a mention of this has been added to the text.

The committee decided the letter is satisfactory and should be sent out to the list. Members are encouraged to distribute it to their respective organizations as well. This may not be as effective as desired because even if there is an umbrella group, each club probably also has its own site, or may not use a site for organizing at all—there is a lot of variability in how groups communicate and how actively they are involved with umbrella organizations. Other rider groups are relatively new and exist outside the established networks. There appear to be a number of Spanish-speaking rider groups that show a preference for powerful, high-performance machines and don’t seem to comply with the law—no helmets, no registration, etc. Groups like this may be scofflaws, but they may also just not be getting the

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message. The committee should consider trying to contact riders through Facebook.

The state website reorganization is nearly completed. To date, the lack of a single web location that offers a clear presentation of OHV laws has been a problem. It may be worth waiting for the reorganization to be complete before trying to create a single OHV page to which the public can be directed.

The committee discussed the appropriate level of participation by the public. Also discussed was the repeated absence from OHV Advisory Committee meetings of designated health and safety representative

Discussion about how much impact the law or this committee can have on reducing child injuries and fatalities from OHVs. Some members voiced the opinion that the impact of even the best child safety laws are limited because so much depends upon parents. If they are bad or irresponsible, children are going to get hurt in spite of the law. If they are responsible, a lot of injuries can be avoided regardless of what the law says. People who are irresponsible are probably less likely to belong to an organized rider group, so they aren't going to receive a message sent through a formal network.

The committee discussed the role of OLE officers in outreach and monitoring of OHV dealers. OLE officers visit dealers to check permits and make sure they have information pamphlets/booklets to distribute. If posters, etc. are made, they could distribute these as well. OLE will confirm exactly how many dealers have been visited, as well as whether all dealers in the state have been visited by an officer. Some businesses are primarily focused on selling other items, and may just have a few OHVs that they also sell, or new shops appear that don't have permits; OLE may not know that they are selling OHVs. Several cases of OHV law booklets have been distributed to dealers. There are probably around 40-50 licensed OHV dealers in MA. There is anecdotal evidence that more, seemingly unlikely, shops are popping up and selling OHVs.

OLE officers get a mixed reception from dealers. Dealers want to sell small (targeted at children) OHVs, and they legally may do so, even in Massachusetts, because people can take them out of state and ride. Dealers are required to hand out safety materials when people buy an OHV, but for a long time they didn't have any materials to give.

The Lunenburg Police Department is a good example of a local PD being actively involved in the OHV law and its enforcement. They have a Facebook site that has posted DCR's OHV links and a reminder that OHV riding is not permitted on town conservation lands. Facebook is not just for teenagers to chat with their friends; it is becoming a real vehicle for dissemination of information. You have to go where your audience is. It also allows a dialogue with the public and quick response by the police to any questions or concerns.

### **3. Education update**

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(Refer to handouts on education course, certifications, and vehicle registrations)  
Course statistics are for this summer. A larger percentage of dirtbike riders have taken the course than ATV riders. This may be because dirtbike riders are better organized, and NETRA encouraged children to take the course, and transported a bunch of children to the course. Motorcross riders may not be well-represented at the trainings because there is confusion in the motorcross riding community as to whether the law even applies to them, since they ride almost exclusively on private land. There should be better communication to motorcross groups.

The six and seven year-olds who took the course were dirtbike riders. More people have completed the online course than the number of people who have completed the education requirement because there is a lag from the time that a person finishes the online course and the next classroom course offering. A reminder notice is sent to people who have taken the online course, telling them of the dates for the next classroom courses. The "not applicable" category on the course completion progress chart are adults.

The page titled "MA Registered ATVs" does not include snowmobiles.  
Two new sergeants in at OLE will be taking the place of existing instructors to teach the class.

Not as many people have taken the courses as desired. Riders have complained that not enough classroom courses are offered, or that they have been cancelled. Courses have been cancelled because people don't show up and that takes an officer out of the field to stand around in an empty room. It might help if EEA had another press release about the courses. Press releases get picked up by local papers where people may be more likely to see them.

The biggest criticism of the online course so far is that it focuses too much on four-wheel vehicles, to the exclusion of two-wheeled vehicles. Some of the children who ride dirtbikes found the course wasn't really applicable to them. Dirtbike riders are more frequently riding in organized events.

ATV riders have been underrepresented in the both the online and classroom course. This is a problem because a significant driver behind passing the legislation was specifically ATV safety, and preventing ATV deaths. If they aren't taking the course, they may not be getting the message.

The Municipal Police Training Committee, which trains all municipal, UMass, and environmental police officers in the state at their training academy. They have

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some significant funding limitations, but OLE is trying to help them to offer training on OHVs as part of their basic training for new officers and continuing education for current municipal police officers. Right now OHV training is voluntary, and often OLE can't spare the staff to conduct sessions. It is not offered as part of the standard in-service week all active police officers have. It is a budget and time issue for local PDs as well. The ideal situation would be to have OHV training be a standard part in established annual in-service training. Lt. Merri Walker will contact Chief Ernest Horn to see if he can help increase municipal PD involvement.

#### **4. OHV trails update**

This year DCR expanded the permitting process to October Mountain State Forest and Beartown State Forest (previously it was just at Pittsfield SF). The feedback has been mostly positive about the process. Riders can register by email or regular mail and their permit can be sent by mail. It gives riders a lot of flexibility in how to get the permit. DCR has been able to get a lot of good information from the process about all three forests. The big surprise was the low numbers of riders. Pittsfield continues to be the most popular, for instance, on the three day Labor Day weekend, Pittsfield had 45-50 riders. But last week there was only one rider at Beartown, and two at October Mountain. Two riders came on the weekend.

There is a very high level of compliance—DCR has found very few unpermitted OHV riders—which may be attributed to the process being simple and not too disruptive. There have been some problems with jeeps.

DCR has been making progress on its fine filter analysis of lands. The analysis was developed as an outgrowth of the OHV Working Group process and is meant to be applied system-wide as well as to evaluate individual properties. It began with a coarse filter analysis, which has been completed for all properties that allowed OHV use at the time. The fine-filter analysis takes a closer look at each property designated through the course analysis for a particular use or management type, focusing on three aspects: 1) environmental resources and impacts(trail-level, not just landscape level), 2) design, 3) management (infrastructure, parking, staff, etc) The process is ongoing and still internal within DCR. A series of public information and comment sessions will be held, but the timing is not yet determined.

DCR is looking at both existing formal and informal trails. The objective is for each facility where OHV riding is offered to have at least 30 miles of trails. It's not absolute, but that's the goal; we want to make sure that there where we permit OHVs, the opportunities to ride are real, and enough to merit people coming. The question to ask is, Is there potential for a good experience riding if we invest in

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(existing and potential additional) trails?

The fine filter analysis has influence on trail investments. From the Pittsfield walk on the Skyline Trail, we heard that the committee didn't think the condition was too bad from the rider perspective—it needed some work, but nothing colossal in scale. DCR heard the recommendation to consider doing something simple that still adequately deals with the stream and wetlands crossings. Right now, the timing of the fine filter analysis precludes work on a pilot trail maintenance project. It isn't prudent to make a major investment before we know the outcome, before we know where there will be OHV riding. It is sort of a chicken-or-egg issue, however, as one of the purposes of a pilot maintenance project is to analyze the work and gather data on how effective and lasting it is, which could help inform the management plan strategy and cost planning for the rest of the state. There is no scope or bidding yet for the pilot; we don't know what we want, except that it doesn't need to be the cadillac option.

OHV fund use is approved at \$100,000, earmarked for this project, but since DCR is in the middle of several parallel processes, it has not be used. The permitting DCR already has is for the \$600,000 cadillac plan, but the permits are specifically for the wetlands crossings, which are where we have the least flexibility regarding the tactic taken to deal with them. We still need to figure out basic strategies for addressing common issues.

The committee didn't realize that the fine filter analysis could result in the conclusion that no money should be invested in the trail. Committee members voice some frustration with the situation.

It is suggested that when trails are being built, alternate routing should be identified and included in the management plan, such that in the event a problem arises that requires a section to be closed, rather than the whole trail being closed, the trail could be quickly relocated to the alternate route. It may be difficult to approve contingent sites, especially around wetlands (which is where problems requiring closure are most likely to occur), because the whole point of permitting is to know exactly where impacts are going to occur.

In October Mountain, the bridges that were destroyed in the hurricane have not yet been replaced. A temporary, unofficial workaround is for OHV riders to take Schermerhorn Road to the next trail section. NETRA wants an answer on whether all October Mountain trails are open to OHVs or not, specifically whether Schermerhorn Rd. is officially open to OHV riders, or can they receive a citation if they ride on it? It is legal to ride at October Mountain, but the trail is fragmented

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and there are access problems.

Can unmaintained roads be open to OHVs? Towns are leary of this because of Ch. 90 funds, which are tied to mileage of town roads.

Can there be signage and marked trail crossings, to allow OHVs to cross active roadways? DCR is considering this, but it is complicated.

Repairs and improvements to the October Mountain trails are delayed because they are also awaiting completion of the fine filter analysis, as well as full funding. DCR wants to make an informed decision about how OHV riding fits into the overall ecological and management considerations. Goals need to be set for each property before work is begun.

The OHV Fund rolls over from year to year, so unused portions are not lost, but the lack of visible application of the fund may cause support for the whole program to dwindle in the rider community. This could lead to an increase in illegal riding activity, which in turn will increase the draw on enforcement resources.

Discussion about the purpose of the legislation and OHV Advisory Committee. The purpose of the legislation, and this committee, is not protecting the rider community or its opportunities to ride. The law is supposed to protect children riders, the environment, and other trail users. The committee is supposed to help with the implementation of the law. People who do not ride OHVs are equally frustrated with the process, in particular with the lack of enforcement and the strain on environmental resources.

The committee expressed a desire to discuss the regulations themselves. Some comments could not be fully discussed as part of the emergency regulations process. The committee could make recommendations on what should be changed. Examples: rules regarding treatment of domestic animals; font and size of registration decals; age restrictions on snowmobile use. The wording is important to a broad range of stakeholder groups. There was a reticence earlier in the year to initiate the process to change the regulations because there was a possibility that new legislation would pass, which would have required updating the regulations. The legislation went to the third reading, but did not get put to vote. EEA continues to monitor the legislation and will keep the committee updated.

One of the pillars of enforcement is providing sufficient safe, legal places for people to ride. It also helps keep stakeholders' organizations relevant and afloat—they have to have something to offer their members.

DCR Trail Forums: Sept 24, Oct. 18(ish), several other dates.

DCR has reorganized and unified its management structure, and wants to communicate with the public about it. This will help clarify the potential role of

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volunteers. DCR knows that its original volunteer policy was too bureaucratic, and hopes that the new reorganization will effectively address the problem. It wants to encourage stewardship and volunteering, but it must ensure responsibility, structure, and leadership. It had a MOA that was fairly successful, and will be incorporated into the volunteer program. Volunteers who follow the policy will have the same liability protection as DCR employees. DCR supervision will be impacted by significant staff limitations.

### **5. Enforcement update**

(refer to handout on OHV police calls and citations)

Citations and court are not the best way for people to learn the law. Here, ATV means any OVH, except snowmobiles, which aren't included because only summer months are shown. These are only calls and citations issued by OLE; local police departments are only just beginning to contact OLE about OHV incidents, but there is no requirement that they do so, and OLE does not have statistics on their calls or citations. A single ATV stop may result in multiple citations. The calls and citations can't be broken out into OHV type because OLE uses the same Chapter 90 ticketbook used for cars, and it doesn't ask for or have a place for indicating the type of OHV. The committee could request the form be changed, but it is unlikely to happen. Ticketbooks are for all police, and the citation software is an expensive commercial product that isn't set up to track that.

The reason for a citation can be tracked, but OLE does not have an accurate breakdown of the amount of the fines because the issuing officer doesn't know the outcome of the fine at the time he issues a citation. This will also illustrate the demands on officers' time. An officer may issue a rider a citation for \$XX. But that rider then has 21 days to pay the fine or contest it at district court. If they choose to contest it, they can go before the clerk magistrate and describe what happened, etc. The officer that wrote the citation has to appear in court (about 10% of the time, another, specially-designated court officer may appear on issuing officer's behalf). The clerk magistrate may:

- 1) make the person pay the fine;
- 2) make them pay a reduced fine;
- 3) dismiss the charge; or
- 4) "continue" the fine—meaning the person will be required to go to a training/education course instead of paying the fine. This is treated as a diversionary program; people are given a certain number of days to complete the course, after which they come back to court and the fine is waived.

All of this means that the amount of fines ultimately paid may differ substantially from the dollar value of citations issued by OLE officers. This increases the

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importance of establishing good ties to the courts so that we know fines are being appropriately directed to the OHV fund. EEA and OLE is working with the trial courts to establish the means to get citation money back from the general fund and into the OHV fund.

Accidents 2012 to date:

46 OHV (32 ATV, 14 dirtbike)

1 fatality (dirtbike; 22 y.o. male)

39 injuries (10 minors)

### **6. OHV Fund update**

Revenue this year went down 43% for snowmobiles, but this is probably due to the minimal snowfall last winter. Revenue is down 13% for other OHVs. The original projection was for about \$800,000 in the fund, but it is only \$574,000. We will have to scale our requests to accommodate reduced revenue. The 25% reserved for trails has been accumulating over both 2011 and 2012. The \$100,000 from the fund approved to use for a trail pilot is still in the fund because we have not yet decided what to pilot.

The 25% for trails is a minimum to be reserved; it could be higher.

There is \$685,683 in the fund today, and \$351,470 reserved for trails.

Other agencies (Dept. of Fish and Game, Dept. of Conservation and Recreation) may use money from the OHV fund, with approval, for OHV-related expenses such as barriers and cameras. The EEA Chief of Staff reviews agency requests and carefully scrutinizes them—more are turned down than approved. The funds they receive from the OHV fund is an apportionment.

### **7. Regulations and legislation update**

Not many changes to the regulations have been discussed since the March meeting. The impetus for revisiting the regulations was to clarify the rules for snowmobiles. Some parts of the statute are not clear, and don't fit with how people ride snowmobiles. We were waiting for the end of the legislative session because it seemed likely that new OHV legislation would pass, which would have required the regulations to be reviewed. Some still hope it will move in informal session, but that's probably not likely. The committee would like to revisit the regulations because some perceive that comments weren't considered in an emergency process.

### **Next steps/action items**



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1. Send the outreach letter
2. Consider other social media tools for reaching riders—Facebook etc.
3. EEA press release to get the word out to local papers about OHV education requirement and course offerings
4. Targeted outreach to motorcross riders through groups such as NESC, NEMX, NEMA, and other smaller groups (Bill Riordan may have contacts).
5. Targeted outreach to ATV riders
6. Are all October Mountain trails open to OHVs now? Is it permissible for OHV riders to ride on Schermerhorn Rd. to access trail cut off by unrepaired bridges?
7. Committee may make recommendations on what should be changed in the regulations.
8. Send update on DCR volunteer policy
9. Next meeting should include discussion of what the committee wants to focus on as a group
10. Explain how apportionment of OHV fund to agencies for approved OHV expenses is calculated
11. Clearer chart on OHV fund – add columns for deposits/withdrawals?